



Adult Restitution Fines - Quick Reference Sheet



RESTITUTION FINES

Restitution fines are a major source of financing for the state Restitution Fund (Fund).
The Fund assists victims and their families with economic losses suffered as a direct result of criminal acts.

Misdemeanor Conviction

\$100 - \$1,000
PC §1202.4 (b)(1)

Felony Conviction

\$200 - \$10,000
PC §1202.4 (b)(1)

- The court shall impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. **PC §1202.4(c)**
- A separate hearing for the fine is *NOT* required. **PC §1202.4(d)**
- Inability to pay is *NOT* a compelling and extraordinary reason for waiving the fine. **PC §1202.4(c)**
- The fine *CANNOT* be stayed.

DETERMINING A FINE ABOVE THE MINIMUM

To set a misdemeanor or felony fine above the minimum, the Court *SHALL* consider any relevant factors including, but not limited to:

- Number of victims
- Seriousness and gravity of the offense
- Circumstances of its commission
- Economic gain derived by the defendant as a result of the crime
- Extent to which any other person suffered losses
- Pecuniary losses to the victim or his/her dependents
- Psychological harm to the victim or his/her dependents
- Defendant's inability to pay
- Defendant's future earning capacity

Defendant is presumed to be able to pay above the minimum restitution fine, and The statute expressly places the burden on a defendant to prove lack of ability.

People v. Romero (1996) 43 Cal.App.4th 440, 449

A felony fine above the minimum MAY be determined by using the following formula:
\$200 x years sentenced x felony counts (of which the defendant is convicted, up to a \$10,000 maximum.) **PC §1202.4(b)(2)**

CIVIL JUDGMENT

Restitution fines and orders are enforceable as if they were civil judgments.
PC §1214(a) & (b)

PAROLE RESTITUTION FINE

A trial court shall impose a parole restitution fine equal to the restitution fine whenever a sentence includes a period of parole. The parole restitution fine will be suspended unless parole is revoked. **PC §1202.45**

INCOME DEDUCTION ORDER

If the court imposes a restitution order, the court must enter a separate order for income deduction on determination of defendant's ability to pay. The defendant bears the burden on inability to pay. **PC §1202.42**

California Judges Benchguide 2003, §83.60 and §83.81

MANDATORY DIVERSION FEE/DEFERRED ENTRY OF JUDGMENT

\$100 - \$1,000
PC §1001.90(b) and (i)

Diversion also means deferred entry of judgment pursuant to Chapter 2.5 (commencing with **PC §1000**)

Exception: Persons whose cases are diverted pursuant to Chapter 2.8 (commencing with **PC §1001.20**)

DEFENDANT'S STATEMENT OF ASSETS CR-115

The defendant must file a statement of assets with the clerk no later than the defendant's sentencing date, unless otherwise directed by the court.

PC §1202.4 (f)(5)-(f)(10)
California Judges Benchguide 2003, §83.64 and §83.80